

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Case No. 3:25-cv-00184-MMD-CLB

NABOR REYES-RODRIGUEZ,

ORDER

Petitioner,

v.

TERRY ROYAL, *et al.*,

Respondents.

Petitioner Nabor Reyes-Rodriguez, a *pro se* Nevada prisoner, commenced this habeas action by filing a Petition for Writ of Habeas Corpus. (ECF Nos. 1-1, 5.) This habeas matter is before the Court for initial review under the Rules Governing Section 2254 Cases.<sup>1</sup>

Under Habeas Rule 4, the assigned judge must examine the habeas petition and order a response unless it “plainly appears” that the petitioner is not entitled to relief. See *Valdez v. Montgomery*, 918 F.3d 687, 693 (9th Cir. 2019). This rule allows courts to screen and dismiss petitions that are patently frivolous, vague, conclusory, palpably incredible, false, or plagued by procedural defects. See *Boyd v. Thompson*, 147 F.3d 1124, 1128 (9th Cir. 1998); *Hendricks v. Vasquez*, 908 F.2d 490, 491 (9th Cir. 1990) (collecting cases).

Petitioner challenges a conviction and sentence imposed by the Eighth Judicial District Court for Clark County. See *State of Nevada v. Reyes-Rodriguez*, Case No. C-19-340666-1.<sup>2</sup> On June 14, 2022, the state court entered a judgment of conviction for two

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<sup>1</sup>All references to a “Habeas Rule” or the “Habeas Rules” in this order identify the Rules Governing Section 2254 Cases in the United States District Courts.

<sup>2</sup>The Court takes judicial notice of the online docket records of the Eighth Judicial District Court and Nevada appellate courts. The docket records may be accessed by the public online at: <https://www.clarkcountycourts.us/Anonymous/default.aspx> and at: <http://caseinfo.nvsupremecourt.us/public/caseSearch.do>.

1 counts of lewdness with a child under the age of fourteen. The state court sentenced  
2 Reyes-Rodriguez to two terms of life with the possibility of parole after 10 years to run  
3 concurrently. The Nevada Supreme Court affirmed the conviction. Reyes-Rodriguez did  
4 not file a state habeas petition.

5 On April 8, 2025, Petitioner mailed or handed to a correctional officer for the  
6 purpose of filing his federal petition for writ of habeas corpus. (ECF No. 1-1.) The Court  
7 instructed him to resolve the filing fee, and he timely complied. (ECF Nos. 3, 4.) Reyes-  
8 Rodriguez has attached his opening brief on direct appeal as well as the state appellate  
9 court's order of affirmance. He asserts that he "selectively incorporates" the opening brief.  
10 In addition, he asserts five separate grounds for relief that are primarily written in Spanish  
11 by his cellmate who no longer lives with him.

12 In addition, Reyes-Rodriguez refers to a motion for appointment of counsel. He,  
13 however, has not filed a motion for appointment of counsel in this matter. There is no  
14 constitutional right to appointed counsel in a federal habeas corpus proceeding. *See Luna*  
15 *v. Kernan*, 784 F.3d 640, 642 (9th Cir. 2015) (citing *Lawrence v. Florida*, 549 U.S. 327,  
16 336-37 (2007)). However, an indigent petitioner may request appointed counsel to pursue  
17 such relief. *See* 18 U.S.C. § 3006A(a)(2)(B). The decision to appoint counsel is generally  
18 discretionary. *See id.* (authorizing appointment of counsel "when the interests of justice so  
19 require"). However, counsel must be appointed if the complexities of the case are such  
20 that denial of counsel would amount to a denial of due process and where the petitioner  
21 is so uneducated that he or she is incapable of fairly presenting his or her claims. *See La*  
22 *Mere v. Risley*, 827 F.2d 622, 626 (9th Cir. 1987); *Brown v. United States*, 623 F.2d 54,  
23 61 (9th Cir. 1980).

24 The Court, nonetheless, finds that appointment of counsel in this case is in the  
25 interests of justice. Reyes-Rodriguez is serving a lengthy sentence. In addition, his petition  
26 may raise relatively complex issues, and it is unclear whether he will be able to adequately  
27 articulate his claims in proper person considering his limited understanding of the English  
28 language. Therefore, Reyes-Rodriguez's request for the appointment of counsel is

1 granted.

2 It is further ordered that the Federal Public Defender is provisionally appointed as  
3 counsel and will have 30 days to undertake direct representation of Petitioner or to indicate  
4 the Office's inability to represent Petitioner in these proceedings. If the Federal Public  
5 Defender is unable to represent Petitioner, the Court will appoint alternate counsel. The  
6 counsel appointed will represent Petitioner in all federal proceedings related to this matter,  
7 including any appeals or certiorari proceedings, unless allowed to withdraw. A deadline  
8 for the filing of an amended petition and/or seeking other relief will be set after counsel  
9 has entered an appearance. The Court anticipates a deadline of approximately 90 days  
10 from entry of the formal order of appointment.

11 It is further ordered that any deadline established and/or any extension thereof will  
12 not signify any implied finding of a basis for tolling during the time period established.  
13 Petitioner at all times remains responsible for calculating the running of the federal  
14 limitation period and timely presenting claims. That is, by setting a deadline to amend the  
15 petition and/or by granting any extension thereof, the Court makes no finding or  
16 representation that the petition, any amendments thereto, and/or any claims contained  
17 therein are not subject to dismissal as untimely. See *Sossa v. Diaz*, 729 F.3d 1225, 1235  
18 (9th Cir. 2013).

19 The Clerk of Court is directed to add Nevada Attorney General Aaron D. Ford as  
20 counsel for Respondents and to provide Respondents with an electronic copy of all items  
21 previously filed in this case by regenerating the Notice of Electronic Filing to the Office of  
22 the Attorney General only. Respondents' counsel must enter a notice of appearance within  
23 21 days of entry of this order, but no further response will be required from Respondents  
24 until further order of the Court.

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1 The Clerk of Court is further directed to send a copy of this order to the *pro se*  
2 Petitioner, the Nevada Attorney General, the Federal Public Defender, and the CJA  
3 Coordinator for this division.

4 DATED THIS 14<sup>th</sup> Day of May 2025.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written above a horizontal line.

6 MIRANDA M. DU  
7 UNITED STATES DISTRICT JUDGE